IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 15652 OF 2007(L)

PETITIONER:

PUSHPANGADHAN, S/O.PRABHAKARAN,
NEETHU BHAVANAM, OLIPURAM, MANGODE P.O.,
PATHANAPURAM TALUK.

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENTS:
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1. SUB INSPECTOR OF POLICE,
KOODAL POLICE STATION, KOODAL.

2. DISTRICT LABOUR OFFICER, PATHANAMTHITTA.

3. DISTRICT LABOUR OFFICER, KOLLAM.

4. HEADLOAD WORKERS UNION (C.I.T.U),
THIDI, NIRATHUPARA, KALANJOOR, REP. BY ITS
CONVENER ANIL, AJITHA BHAVAN, THIDI,
KALANJOOR P.O.

5. HEADLOAD WORKERS UNION, (INTUC),
THIDI, NIRATHUPARA, KALANJOOR, REP. BY ITS
CONVENER SUNNY, THOPPIL VEEDU, THIDI,
KALANJOOR.

6. HEADLOAD WORKERS UNION, (AITUC),
THIDI, NIRATHUPARA, KOODAL, REP. BY ITS
CONVENER RAHIM.

7. HEADLOAD WORKERS MAZDOOR SANGH,
(BMS), THIDI, NIRATHUPARA KOODAL,
REP. BY ITS CONVENER RAGHUNATHA KURUP.

8. HEADLOAD WORKERS UNION, (KTUC),
THIDI, NIRUPARA, KALANJOOR, REP. BY ITS
CONVENOR SHAJI.

9. GOPALAN NAIR, GOURI VILASOM VEEDU,
MANGODE, KALANJOOR P.O.

GOVERNMENT PLEADER SRI. K.C. SANTOSH KUMAR.
SRI.P.RAMAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) 15652/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN THE PETITIONER AND THE TRADE UNIONS IN THAT LOCALITY DATED 7.4.2007.
EXT.P2	TRUE COPY OF THE JUDGMENT DATED 3.2.2005 IN WP (C) NO. 3967/2005 OF THIS COURT.
EXT.P3	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 24.4.2007.

RESPONDENTS' EXHIBITS:

EXT.R4(A)	TRUE COPY OF IDENTITY CARD ISSUED TO S. SULAIMAN RAWTHER.
EXT.R4(B)	TRUE COPY OF AGREEMENTS DATED 15.12.2004.
EXT.R4(C)	TRUE COPY OF AGREEMENT DATED 15.7.2005.
EXT.R4(D)	TRUE COPY OF AGREEMENT DATED 10.8.2005.
EXT.R4(E)	TRUE COPY OF AGREEMENT DATED 10.6.2007.
EXT.R4(F)	TRUE COPY OF JUDGMENT DATED 21.1.2007 IN W.P.(C) NO. 4919/2007.

// TRUE COPY //

P.S. TO JUDGE.

KNC/-

P.R. RAMAN & K. HEMA, JJ.
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W.P.(C) NO. 15652/2007
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DATED THIS, THE 6TH DAY OF JULY, 2007.

J U D G M E N T

Raman, J.

Petitioner purchased 200 rubber trees standing in the property owned by the 9th respondent. He wants to cut and remove the said trees for enabling the 9th respondent to effect replantation. The area in which the rubber trees are standing is not a scheme covered area under the Head Load Workers Act. It is contended by the learned counsel for the petitioner that respondents 4 to 8 are causing obstruction to the cutting and removal of the trees. Petitioner has no objection in engaging the workers belonging to the respondent Unions provided they are prepared to do the work at the agreed rates. Learned counsel for respondents 4 to 8 would submit that they are prepared to do the work at the agreed rate.

2. In this connection, we need notice two decisions of this court rendered in favour of the petitioners therein. One of them is Ext.P2, rendered by a Division bench of this Court in W.P.(C) 3967/2005. The petitioners therein approached this Court seeking police protection. It was

the contention of the petitioners that there exists some dispute between the Unions and as a result, they were not in a position to carry out the loading and unloading work. That dispute was, however, resolved by apportioning the work in the ration 60:60 between the rival contestants claiming right to do the work. In W.P.(C) 4919/2007 which is produced as Ext. R4(f) in this writ petition was also a similar petition seeking police protection for cutting and removal of rubber trees in respect of an area not covered by the scheme. It was held that if the registered workers, in the area refuse to do the work at the agreed rate, petitioner can employ any person of his choice.

3. In this case, Respondents 4 to 8 submitted that there is a settlement between the petitioner and the Unions and Ext.R4 (E) is produced in support thereof. This is not disputed by the petitioner. In the above facts and circumstances, we direct that so long as Ext.R4(E) is in force, petitioner may engage workers who are signatories to Ext.R4(E) and pay such rate as agreed upon. However, in case escalated claim is made by the Union than the rate agreed upon, it will be open to the petitioner to engage his own men. This order will be implemented for carrying out the

work and in case there is any law and order situation, appropriate protection shall be granted by the police authorities.

The writ petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

K. HEMA,
(JUDGE)

knc/-